

AMENDMENTS TO THE DRAWINGS:

The attached drawing figures will replace all prior versions of drawing figures in the application. An explanation of the changes is presented in the Remarks section.

REMARKS

Claims 1-33 are pending in the application. Applicants gratefully acknowledge allowance of claims 21-33. Applicants have carefully reviewed the rejections presented in the Office action and respectfully request reconsideration of the claims in view of amendments to claim 1 and the remarks presented below.

Specification

Paragraph [0055] of the disclosure was objected to with regard to the reference to an atlas knit in international patent Publication Number WO 01/95830. Applicant has changed the specification to correct this informality. Specifically, paragraph [0055] has been amended and moved to the background of the invention section of the specification after paragraph [0005]. Paragraph [0084], which also refers to the atlas knit, has been amended and moved to the background of the invention section of the specification after the contents of former paragraph [0055]. No new matter was added in amending the contents of former paragraphs [0055] and [0084].

Figure 13, referenced in former paragraph [0084], has been labeled as prior art. Consistent with this change, paragraph [0025], which describes Figure 13, was amended from "test data for one embodiment of a cardiac harness" to "test data for a cardiac harness constructed of a knit material."

The disclosure also was objected to because metric and English units need to be set forth in the specification pursuant to M.P.E.P. 608.01 IV. Applicant has changed the written description, drawings and claims to correct this informality. Specifically, paragraphs [0007], [0010], [0011], [0083], [0086], [0088], [0089], [0091], [0092], [0094], [0095], [0097]-[0100], [0103], [0104]-[0106] and [0110] were amended to include values expressed in metric units followed by values within parenthesis expressed in English units.

Figures 13 and 15-18, and claims 1 and 3-6 have also been amended to include values expressed in metric units followed by values within parenthesis expressed in English units.

Paragraph [0098] was amended to correct an error. The formula " $y = -0.00005x^2 + 0.0054x - 0.0129$ " was amended to " $y = -0.00002x + 0.0054x - 0.0129$ " to be consistent with Figure 18 which shows the formula " $y = -2E-5x^2 + 0.0054x - 0.0129$ ".

Claim Rejections under 35 U.S.C. § 112

Claims 1-8 have been rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 1, 7 and 8 to overcome the rejection. More specifically, claim 1 was objected to on grounds that it is unclear to the examiner if "an operating range of expansion" is the circumferential expansion previously set forth. Accordingly, "an operating range of expansion" in claims 1, 7 and 8 has been amended to "an operating range of circumferential expansion." Claim 1 also was objected to on grounds that "a minimum value of at least 20 percent" is set forth, however the examiner states that it is unclear as to 20 percent of what is being set forth. Accordingly, "a minimum value of at least 20 percent" in claim 1 has been amended to "a minimum value of at least 20 percent circumferential expansion." In addition, "a minimum value of at least about 25 percent" in claim 7 has been amended to "a minimum value of at least about 25 percent circumferential expansion." Therefore, claims 1-8 are now in condition for allowance.

Claim Rejections under 35 U.S.C. § 102

Claims 9-20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Alferness et al. (6,482,146). Applicant respectfully submits that claims 9-20 are patentably distinguishable over Alferness et al. The rejection is based on the examiner's observation that the graph in figure 22 of Alferness et al. (figure 22) is generally linear between any two points 10 percent of strain apart. The examiner should observe that due

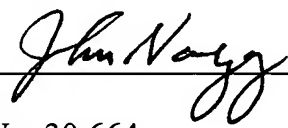
to the concave or upwardly bending shape of the graph in figure 22, two non-overlapping ranges of strain having a width of at least 5 percent of strain, while generally in the form of $y=ax+b$ where a and b are determined by linear regression, must have different values for the slope " a ". More specifically, taking the first value of " a " (a_1) to be the slope of any first selected range of strain having a width of at least 5 percent of strain, and taking the second value of " a " (a_2) to be the slope of any second selected range of strain having a width of at least 5 percent of strain and consisting of values greater than the first selected range, a_2 must be greater a_1 . This result holds even when assuming only for the purpose of argument that a 10 percent width of the graph in figure 22 encompassing two selected ranges having a width of 5 percent can be expressed generally as $y=ax+b$ because any 10 percent width is slightly concave. In contradistinction to figure 22, claim 9 recites: "the second value of ' a ' being no greater than the first value of ' a '." Because Alferness et al. does not teach every aspect of the claimed invention, claim 9 as previously presented, and the claims that depend thereon, are believed to be in condition for allowance.

Conclusion

Claims 1-20 are believed to be in condition for allowance. Claims 21-33 have been allowed. It is respectfully urged that the application be examined at the earliest convenience. The undersigned can be reached at (310) 824-5555 to facilitate prosecution of the application.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 
John S. Nagy
Registration No. 30,664

JSN:NLM:kk:jeb

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201

86686.1